



PATENT
Attorney Docket No. MSU-08153

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Katherine W. Osteryoung *et al.*

Serial No.: 10/600,070

Group No.: 1638

Filed: 06/20/2003

Examiner: Kubelik, A.

Entitled: **Plastid Division and Related Genes and Proteins, and Methods of Use**

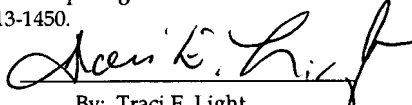
**REQUEST TO WITHDRAW FINALITY OF FINAL
OFFICE ACTION MAILED OCTOBER 18, 2007**

Mail Stop - Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8(a)(1)(i)(A)

I hereby certify that this correspondence (along with any referred to as being attached or enclosed) is, on the date below, being deposited with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: October 26, 2007


By: Traci E. Light

Examiner Kubelik:

The Applicants respectfully request that the Examiner consider withdrawing the pending Final Office Action as being prematurely issued. The Applicants have diligently pursued the prosecution in good faith and in accordance with USPTO guidelines:

The applicant who is seeking to define his or her invention in claims that will give him or her the patent protection to which he or she is justly entitled should receive the cooperation of the examiner to that end, and not be prematurely cut off ...

MPEP §706.07 Final Rejection [emphasis added]. Further, the Applicants have not engaged in any behavior intended to unfairly prolong the examination:

...the applicant who dallies in the prosecution of his or her application, resorting to technical or other obvious subterfuges in order to keep the application pending before the primary examiner, can no longer find a refuge in the rules to ward off a final rejection.

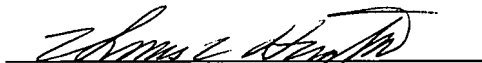
MPEP §706.07 Final Rejection. On the contrary, the Applicants have objectively considered the Examiner's arguments and provided claim amendments where appropriate. In response, the Examiner has withdrawn some rejections and/or objections. In particular, as pointed out in the accompanying response, Claims 27-30 should have been allowed due to their mistaken inclusion in an enablement requirement. *This mistake has deprived the Applicants an the opportunity to obtain a patent on these claims AND file a continuation BEFORE November 1st to continue prosecution on the rejected claims.*

In other words, progress is being made on this application. A Final Rejection at this point unfairly truncates the Applicants' entitlement to a full and fair hearing:

The examiner should never lose sight of the fact that in every case the applicant is entitled to a full and fair hearing ...

MPEP §706.07 Final Rejection. Consequently, the Applicants respectfully request that the Examiner consider withdrawing the present final office action.

Dated: October 26, 2007



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